

**§ 173.64 Exceptions for Division 1.3 and 1.4 fireworks.**

(a) Notwithstanding the requirements of §173.56(b), Division 1.3 and 1.4 fireworks (see §173.65 for Division 1.4G consumer fireworks) may be classed and approved by the Associate Administrator without prior examination and offered for transportation if the following conditions are met:

(1) The fireworks are manufactured in accordance with the applicable requirements in APA Standard 87-1 (IBR, see §171.7 of this subchapter);

(2) The device must pass a thermal stability test conducted by a third-party laboratory, or the manufacturer. The test must be performed by maintaining the device, or a representative prototype of a large device such as a display shell, at a temperature of 75 °C (167 °F) for 48 consecutive hours. When a device contains more than one component, those components that could be in physical contact with each other in the finished device must be placed in contact with each other during the thermal stability test;

(3) The manufacturer applies in writing to the Associate Administrator following the applicable requirements in APA Standard 87-1, and is notified in writing by the Associate Administrator that the fireworks have been classed, approved, and assigned an EX number. Each application must be complete and include all relevant background data and copies of all applicable drawings, test results, and any other pertinent information on each device for which approval is being requested. The manufacturer must sign the application and certify that the device for which approval is requested conforms to APA Standard 87-1, that the descriptions and technical information contained in the application are complete and accurate, and that no duplicate application has been submitted to a fireworks certification agency. If the application is denied, the manufacturer will be notified in writing of the reasons for the denial. The Associate Administrator may require that the fireworks be examined by an agency listed in §173.56(b)(1).

(b) [Reserved]

[78 FR 42477, July 16, 2013]

**§ 173.65 Exceptions for Division 1.4G consumer fireworks.**

(a) Notwithstanding the requirements of §§173.56(b), 173.56(f), 173.56(i), and 173.64, Division 1.4G consumer fireworks may be offered for transportation provided the following conditions are met:

(1) The fireworks are manufactured in accordance with the applicable requirements in APA Standard 87-1 (IBR, see §171.7 of this subchapter);

(2) The device must pass a thermal stability test. The test must be performed by maintaining the device, or a representative prototype of the device, at a temperature of 75 °C (167 °F) for 48 consecutive hours. When a device contains more than one component, those components that could be in physical contact with each other in the finished device must be placed in contact with each other during the thermal stability test;

(3) The manufacturer of the Division 1.4G consumer firework applies in writing to a DOT-approved Fireworks Certification Agency, and is notified in writing by the DOT-approved Fireworks Certification Agency that the firework has been:

(i) Certified that it complies with APA Standard 87-1, and meets the requirements of this section; and

(ii) Assigned an FC number.

(4) The manufacturer's application must be complete and include:

(i) Detailed diagram of the device;

(ii) Complete list of the chemical compositions, formulations and quantities used in the device;

(iii) Results of the thermal stability test; and

(iv) Signed certification declaring that the device for which certification is requested conforms to the APA Standard 87-1, that the descriptions and technical information contained in the application are complete and accurate, and that no duplicate applications have been submitted to PHMSA. If the application is denied, the Fireworks Certification Agency must notify the manufacturer in writing of the reasons for the denial. As detailed in the DOT-approval issued to the Fireworks Certification Agency, following